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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

In re J&J Investment Litigation

Case No. 2:22-cv-00529-GMN-NJK

Assigned for All Purposes to:
Hon. Gloria M. Navarro

**STIPULATION AND ~~[PROPOSED]~~
ORDER REGARDING CASE
SCHEDULE**

(FIRST REQUEST)

LR 7-1, LR IA 6-2

Pursuant to LR 7-1, LR IA 6-1, and LR IA 6-2, Plaintiffs in the above-captioned action (“Plaintiffs”) and Defendant Wells Fargo Bank, N.A. (“Wells Fargo”) (collectively, the “Parties”) jointly stipulate as follows:

WHEREAS, on September 28, 2022, the Court entered a Discovery Plan and Scheduling Order setting out a case schedule (ECF No. 54);

WHEREAS, the parties have been implementing the phased discovery schedule reflected in the Discovery Plan and Scheduling Order;

WHEREAS, in the first 90-day phase (August 4, 2022, to November 2, 2022), Wells Fargo was to produce certain account-related documents responsive to certain of Plaintiffs’ First Set of Requests for Documents;

1 WHEREAS, in the second 90-day phase beginning November 2, 2022, and ending January
2 31, 2023, the parties were to exchange document requests and responses thereto and produce their
3 documents;

4 WHEREAS, in the third 120-day phase beginning February 1, and ending May 31, 2023,
5 the parties were to conduct depositions and complete written discovery;

6 WHEREAS, during the second phase of discovery, the parties have been working
7 diligently to collect and produce documents. The scope of discovery has expanded, however,
8 from what the parties contemplated when they negotiated the phased discovery schedule reflected
9 in the Discovery Plan and Scheduling Order. Wells Fargo is currently collecting and producing
10 account records for forty-three accounts and documents and emails for nineteen Wells Fargo
11 custodians. Wells Fargo has produced over 20,000 documents totaling over 50,000 pages. Wells
12 Fargo continues to collect and produce documents on a rolling basis, which it anticipates it will
13 continue to do through at least the end of April 2023;

14 WHEREAS, to date, Plaintiffs have produced over 800 documents totaling over 3,500
15 pages and the parties are continuing to negotiate the production of additional documents;

16 WHEREAS, the parties have also engaged in substantial third party discovery. Wells
17 Fargo has served 17 subpoenas on Plaintiffs' businesses and the former class representative and
18 Plaintiffs have served three subpoenas on other financial institutions and the State of Nevada;

19 WHEREAS, the parties have also been negotiating in good faith to resolve issues that
20 arose regarding their document requests. The discussions have required a series of conferences to
21 address a range of issues and resolve or narrow areas of disagreement in an effort to avoid the
22 need for disputes where possible;

23 WHEREAS, the negotiations surrounding interrogatories and document requests have
24 involved, among other things, as to requests directed at Plaintiffs, requests for information about
25 Plaintiffs and their counsel's communications with putative class members, including the former
26 class representatives (Wells Fargo has filed a motion to compel that is currently being briefed and
27 will need to be resolved by the Court), identification of persons with knowledge regarding
28 Plaintiffs' allegations in the Consolidated Complaint, application of Rule 26(b)(5) governing

1 information and documents withheld, the scope of the Plaintiffs' logging obligations, and the
2 timing of contention-style interrogatories and responses thereto. As a result of the parties'
3 negotiations, Plaintiffs have amended or supplemented their written discovery responses,
4 including to respond to contention-style interrogatories, but the parties continue to negotiate
5 additional issues;

6 WHEREAS, the negotiations surrounding document requests directed at Wells Fargo have
7 involved, among other things, the scope and application of the Bank Secrecy Act "SAR privilege"
8 (Plaintiffs previously filed a motion to compel but subsequent negotiations ultimately resolved the
9 dispute without the need for a Court ruling), the scope and application of other confidentiality
10 assertions, including the Gramm-Leach Bliley Act and the Bank Examiner Privilege, the
11 identification of Wells Fargo's communications platforms and internal account notation systems,
12 the selection of targeted search terms, Plaintiffs' requests that Wells Fargo collect documents from
13 additional custodians beyond those originally identified by Wells Fargo, and Plaintiffs' requests
14 that Wells Fargo produce records related to at least 18 more accounts allegedly associated with
15 certain promoters of the J&J scheme than Wells Fargo initially anticipated. As a result of the
16 parties' negotiations, Wells Fargo has supplemented its discovery responses and is collecting and
17 producing a greater number of documents than it originally expected, and the collection and
18 review of those documents is taking longer than it initially anticipated, particularly in the context
19 of investigative documents that require a careful review to ensure compliance with Wells Fargo's
20 Bank Secrecy Act confidentiality obligations;

21 WHEREAS, the parties are working to schedule various depositions (including those of the
22 Plaintiffs, Wells Fargo under Rule 30(b)(6), and several Wells Fargo employees), and seek to
23 substantially complete document discovery before commencing with depositions in earnest. The
24 parties agreed to fifteen deposition per side in the Discovery Plan and Scheduling Order and
25 acknowledged that the total number of depositions could exceed that number;

26 WHEREAS, the parties agree that they have acted in good faith to narrow or eliminate
27 disputes where possible, but this case involves claims against Wells Fargo for allegedly aiding and
28 abetting a 5 year, \$491 million Ponzi scheme. Negotiating the respective document productions

and collecting and producing documents has required more time than the parties anticipated, and the parties were unable to complete written and document discovery consistent with the time periods contemplated in the scheduling order, as the parties anticipate substantially completing document discovery by April 30, 2023, rather than January 31, 2023, as contemplated in the scheduling order;

WHEREAS, the parties believe a 90-day extension of the schedule is necessary to allow for the substantial completion of document discovery and, thereafter, the completion of depositions. The litigation will also feature the submission of expert testimony, and work relating to those efforts will be predicated on the document and deposition discovery discussed above;

WHEREAS, the parties respectfully submit that good cause for the requested extension exists, in that they have been negotiating in good faith to move this action forward reasonably expeditiously, considering the complexity of the issues and the amount in controversy, and that all clients involved consent to the requested extension as consistent with their interest in a prompt yet fair adjudication of this dispute;

WHEREAS, on March 20, 2023, District Judge Gloria M. Navarro issued an order granting in part and denying in part Wells Fargo's motion to dismiss with the majority of Plaintiffs' claims proceeding beyond the motion to dismiss stage; and

WHEREAS, this is the first stipulation for extension of the case schedule.

NOW THEREFORE, the parties stipulate as follows, subject to the Court's approval:

The remaining case deadlines will be extended by 90 days, as set out below:

	Current Deadline	New Deadline
1. Fact Discovery Cutoff	May 31, 2023	August 29, 2023
2. Fed. R. Civ. P. 26(a)(2) Expert Disclosures	May 1, 2023	July 31, 2023
3. Rebuttal Expert Disclosures	May 31, 2023	August 29, 2023
4. Expert Discovery Cut-off	June 30, 2023	September 28, 2023
5. Plaintiffs' Motion for Class Certification Deadline	July 11, 2023	October 9, 2023

	Current Deadline	New Deadline
6. Dispositive Motions Deadline	October 20, 2023	January 18, 2024
7. Joint Pretrial Order	November 20, 2023 [30 days after dispositive motion deadline], or, if dispositive motions are filed, 30 days after decision on the dispositive motions or further Court order	February 20, 2024
8. Fed. R. Civ. P. 26(a)(3) Pretrial Disclosures	November 20, 2023 [30 days after dispositive motion deadline], or, if dispositive motions are filed, 30 days after decision on the dispositive motions or further Court order	February 20, 2024

Dated: March 20, 2023

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IT IS SO ORDERED.

Dated: March 21, 2023



Nancy J. Koppe
United States Magistrate Judge

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